

MELODY A. KRAMER, SBN 169984
KRAMER LAW OFFICE, INC.
9930 Mesa Rim Road, Suite 1600
San Diego, California 92121
Telephone (858) 362-3150

J. MICHAEL KALER, SBN 158296
KALER LAW OFFICES
9930 Mesa Rim Road, Suite 200
San Diego, California 92121
Telephone (858) 362-3151

Attorneys for Plaintiff JENS ERIK SORENSEN,
as Trustee of SORENSEN RESEARCH AND
DEVELOPMENT TRUST

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN, as Trustee of	)	Case No. CV 07 cv 05568 JSW
SORENSEN RESEARCH AND)	
DEVELOPMENT TRUST,	)	DECLARATION OF MELODY A.
	)	KRAMER IN SUPPORT OF
Plaintiff	)	PLAINTIFF'S OPPOSITION TO
v.	)	DEFENDANT LEGACY SUPPORT
	)	SERVICES' MOTION TO SET ASIDE
DIGITAL NETWORKS NORTH	)	ANY APPEARANCE OF DEFAULT
AMERICA, INC., a Delaware	)	AND TO GRANT LEGACY THE SAME
corporation; LEGACY SUPPORT	)	ENLARGEMENT OF TIME TO
SERVICES, LTD. d/b/a S2G; and DOES	)	ANSWER AS DNNA
1-100,)	
	)	Date: June 13, 2008
	)	Time: 9:00 a.m.
Defendants.	)	Courtroom 2, 17 th Floor
	)	Judge: Hon. Jeffrey S. White
)	
)	
)	

1 I, MELODY A. KRAMER, declare:

2 1. I am not a party to the present action. I am over the age of eighteen. I
3 have personal knowledge of the facts contained within the following paragraphs, and
4 could and would competently testify thereto if called as a witness in a court of law.

5 2. At all times relevant herein I have been an attorney for Sorensen
6 Research and Development Trust ("Sorensen"), Plaintiff in the above-captioned
7 matter.

8 3. This declaration is made in support of Plaintiff's Opposition To
9 Defendant Legacy Support Services' Motion To Set Aside Any Appearance Of
10 Default And To Grant Legacy The Same Enlargement Of Time To Answer As
11 DNNA.

12 4. Defendant Legacy Support Services never appeared in this case in any
13 shape or form until April 30, 2008 by co-filing an Opposition to Plaintiff's Motion
14 for Partial Lift of Stay.

15 5. There has been no suggestion, formal or informal, written or oral, prior
16 to the filing of Plaintiff's Motion for Partial Lift of Stay that Legacy was represented
17 by the same lawyers as DNNA or that any appearance or filings by DNNA were
18 intended to have been made by Legacy.

19 6. Defense counsel has misstated my position on this matter by
20 referencing my letter dated April 16th and Mr. Rohde's response letter, but not
21 including my April 21st letter in which I corrected Mr. Rohde's misstatements.
22 Attached hereto as Exhibit A is a true and correct copy of my letter dated April 21st,
23 2008.

24 7. The USPTO's "*Ex Parte* Reexamination Filing Data – March 31, 2008"
25 report reflects 92% of ex parte reexamination requests are granted. However, the
26 same report shows that only 10% of reexaminations result in cancellation of all
27 claims. A true and correct copy of this report is attached hereto as Exhibit B.
28

1 I declare under penalty of perjury under the laws of California that the
2 foregoing is true and correct.

3
4 EXECUTED on Friday, May 23, 2008, 2008, at San Diego, California.

5
6 /s/ Melody A. Kramer

7 Melody A. Kramer, Esq.
8 Attorney for Plaintiff
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EXHIBIT A

Kramer Law Office, Inc.

9930 Mesa Rim Rd., Ste. 1600
San Diego, California 92121
Phone 858/362-3150
Fax 858/824-9073

Melody A. Kramer, Esq.
mak@kramerlawip.com

April 21, 2008

Kurt Rohde
McConnell Boehnen et al
300 South Wacker Drive
Chicago, IL 60606

RE: Sorensen Research & Development Trust v. Digital Networks North America, Inc., et al, Case No. cv074468, Northern District of California

Dear Mr. Rohde:

I am in receipt of your letter dated today. Apparently you did not read my letter closely. It is not my contention that the Court made an error in its order, except to the extent that it did not correct a typographical error in the proposed order that DNNA sent to the Court.

Document # 33 is unambiguous in its identification of the "Defendant" as Digital Networks North America, Inc. and none other. See the first sentence. You simply cannot make a good faith argument that the typographical errors should be construed in favor of a defendant who made no appearance, but is currently represented by the same counsel as the party who drafted the order.

Furthermore, although you claim that Legacy relied on DNNA's typographical errors in that Order, there is no legitimate basis for that claim. The only way that argument would make sense was if your office was secretly representing Legacy in every document that it filed which explicitly and repeatedly represented itself as representing DNNA and only DNNA. I could not even find any reference to Legacy being noticed on any of DNNA's motions.

On the day of our phone conversation, I gave you the benefit of the doubt that you had just overlooked the specific context in which the Order in question was issued. It is now clear that you are, in fact, trying to make arguments that are unsupported by fact or law.

Mr. Rohde
May 7, 2008
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Let me again be clear. I consider it to be a Rule 11 violation for you to make an argument to the Court that contradicts every single written and oral representation, formal and informal, previously made to us and the Court regarding who your office represented and upon whose behalf arguments were made. If your office had any intention for DNNA's motions for extension, motion for stay, or resulting orders to accrue to the benefit of Legacy, you were grossly misrepresenting your intent at the time both to Plaintiff and to the Court.

I will expect you and your colleagues to drop this frivolous argument.

Sincerely,

Melody A. Kramer

EXHIBIT B



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ex Parte Reexamination Filing Data - March 31, 2008

1. Total requests filed since start of ex parte reexam on 07/01/81 9225¹
 - a. By patent owner 3520 38%
 - b. By other member of public 5540 60%
 - c. By order of Commissioner 165 2%

2. Number of filings by discipline
 - a. Chemical Operation 2735 30%
 - b. Electrical Operation 3111 34%
 - c. Mechanical Operation 3379 36%

3. Annual Ex Parte Reexam Filings

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
1981	78 (3 mos.)	1989	243	1997	376	2005	520
1982	187	1990	297	1998	350	2006	511
1983	186	1991	307	1999	385	2007	642
1984	189	1992	392	2000	318	2008	330 YTD
1985	230	1993	359	2001	296		
1986	232	1994	379	2002	272		
1987	240	1995	392	2003	392		
1988	268	1996	418	2004	436		

4. Number known to be in litigation 2465 27%

5. Determinations on requests 8874
 - a. No. granted 8150 92%
 - (1) By examiner 8037
 - (2) By Director (on petition) 113
 - b. No. denied 724 8%
 - (1) By examiner 689
 - (2) Order vacated 35

¹Of the requests received in FY 2008, 28 requests have not yet been accorded a filing date, and preprocessing of 13 requests was terminated for failure to comply with the requirements of 37 CFR 1.510. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

6. Total examiner denials (includes denials reversed by Director)	802			
a. Patent owner requester	440		55%	
b. Third party requester	362		45%	
7. Overall reexamination pendency (Filing date to certificate issue date)				
a. Average pendency			24.1 (mos.)	
b. Median pendency			18.8 (mos.)	
8. Reexam certificate claim analysis:	<u>Owner</u>	<u>3rd Party</u>	<u>Comm'r</u>	<u>Overall</u>
	<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>	
a. All claims confirmed	23%	28%	12%	26%
b. All claims cancelled	7%	13%	21%	10%
c. Claims changes	70%	59%	67%	64%
9. Total ex parte reexamination certificates issued (1981 - present)	6164			
a. Certificates with all claims confirmed			1575	26%
b. Certificates with all claims canceled			658	10%
c. Certificates with claims changes			3931	64%
10. Reexam claim analysis - requester is patent owner or 3rd party; or Comm'r initiated.				
a. Certificates - PATENT OWNER REQUESTER	2632			
(1) All claims confirmed			595	23%
(2) All claims canceled			198	7%
(3) Claim changes			1839	70%
b. Certificates - 3rd PARTY REQUESTER	3386			
(1) All claims confirmed			962	28%
(2) All claims canceled			432	13%
(3) Claim changes			1992	59%
c. Certificates - COMM'R INITIATED REEXAM	146			
(1) All claims confirmed			18	12%
(2) All claims canceled			30	21%
(3) Claim changes			98	67%